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In Re James Simpson. Case AD-50

August 9, 2006

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN,
SCHAUMBER, KIRSANOW, AND WALSH

On July 6, 2005, James Simpson (the Respondent) and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Agreement, subject to the Board's approval, providing for the entry of a consent order by the Board. The Respondent waived the filing of a formal complaint of misconduct and all further proceedings before the Board to which he may be entitled under the National Labor Relations Act, the Board's Rules and Regulations, or any other authority, and also waived his right to seek judicial review of the Formal Settlement Agreement or the Board's Order. No party or person has objected to this settlement.

The Formal Settlement Agreement is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Agreement.

STIPULATED FACTS

The Respondent is an attorney in private practice in Memphis, Tennessee and has at all times material to this matter appeared or practiced before the Board in that capacity.

On January 16, 2004, the Regional Director for Region 26 of the Board served a report referring misconduct allegations to the General Counsel of the Board, pursuant to Section 102.177 of the Board's Rules and Regulations. The report involved, inter alia, the Respondent's alleged misconduct during his representation of the Victor L. Robilio Company, Inc. (Robilio), during an organizing campaign by Teamsters Local 1196 in 2003, as well as the Region's processing of Cases 26-CA-21243, 26-CA-21253, 26-CA-21282, 26-CA-21381, 26-CA-21399, 26-CA-21419, and 26-RC-8371, including the Region's petition for injunctive relief under Section 10(j) of the Act.

Based on the report, the General Counsel investigated allegations that the Respondent engaged in the following misconduct:

1. On October 1, 2003, met with a group of Robilio employees and provided legal advice without having complied with applicable rules concerning disclosure of potential conflicts of interest;

2. On October 1 and/or 2, 2003, obtained signed statements from Robilio employees that were subsequently submitted to the Board without adequate factual investigation; and

3. Procured and paid for the services of attorney Kirk Caraway, Simpson's former associate, to represent Robilio employees before the Board, without complying with applicable rules concerning the disclosure of a potential conflict of interest.

ORDER

Based on the above, the Formal Settlement Agreement, and the entire record, the National Labor Relations Board orders that:

In order to preserve and protect the orderly administration of the National Labor Relations Act and effectuate its policies:

IT IS HEREBY ORDERED that James Simpson be, and he hereby is, reprimanded for the conduct described above.¹

Dated, Washington, D.C. August 9, 2006

Robert J. Battista, Chairman

Wilma B. Liebman, Member

Peter C. Schaumber, Member

Peter N. Kirsanow, Member

Dennis P. Walsh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

¹ The settlement provides that the General Counsel will report Simpson's alleged misconduct to the Tennessee Board of Professional Responsibility, with a recommendation that the Board's reprimand be found to be sufficient sanction. In addition, it specifies that Simpson will strictly follow the Tennessee Rules of Professional Conduct in the future and that he has reviewed Rules 3.3, 4.3, and 1.3.